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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 398

01/28/2019 Authored by Poppe, Hertaus and Davids
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; modifying the agricultural homestead rules for certain properties
1.3 owned by trusts; modifying provisions for service and filing of defense or objection
1.4 to real and personal property taxes; modifying provisions for relief for innocent
1.5 spouses for joint income tax returns; modifying qualified property provisions for
1.6 the estate tax; amending Minnesota Statutes 2018, sections 273.124, subdivisions
1.7 14, 21; 278.01, subdivision 1; 289A.31, subdivision 2; 291.03, subdivisions 9, 10.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2018, section 273.124, subdivision 14, is amended to read:

1.10 Subd. 14. Agricultural homesteads; special provisions. (a) Real estate of less than ten
1.11 acres that is the homestead of its owner must be classified as class 2a under section 273.13,
1.12 subdivision 23, paragraph (a), if:

1.13 (1) the parcel on which the house is located is contiguous on at least two sides to (i)
1.14 agricultural land, (ii) land owned or administered by the United States Fish and Wildlife
1.15 Service, or (iii) land administered by the Department of Natural Resources on which in lieu
1.16 taxes are paid under sections 477A.11 to 477A.14;

1.17 (2) its owner also owns a noncontiguous parcel of agricultural land that is at least 20
1.18 acres;

1.19 (3) the noncontiguous land is located not farther than four townships or cities, or a
1.20 combination of townships or cities from the homestead; and

1.21 (4) the agricultural use value of the noncontiguous land and farm buildings is equal to
1.22 at least 50 percent of the market value of the house, garage, and one acre of land.

2.1 Homesteads initially classified as class 2a under the provisions of this paragraph shall
2.2 remain classified as class 2a, irrespective of subsequent changes in the use of adjoining
2.3 properties, as long as the homestead remains under the same ownership, the owner owns a
2.4 noncontiguous parcel of agricultural land that is at least 20 acres, and the agricultural use
2.5 value qualifies under clause (4). Homestead classification under this paragraph is limited
2.6 to property that qualified under this paragraph for the 1998 assessment.

2.7 (b)(i) Agricultural property shall be classified as the owner's homestead, to the same
2.8 extent as other agricultural homestead property, if all of the following criteria are met:

2.9 (1) the agricultural property consists of at least 40 acres including undivided government
2.10 lots and correctional 40's;

2.11 (2) the owner, the owner's spouse, or a grandchild, child, sibling, or parent of the owner
2.12 or of the owner's spouse, is actively farming the agricultural property, either on the person's
2.13 own behalf as an individual or on behalf of a partnership operating a family farm, family
2.14 farm corporation, joint family farm venture, or limited liability company of which the person
2.15 is a partner, shareholder, or member;

2.16 (3) both the owner of the agricultural property and the person who is actively farming
2.17 the agricultural property under clause (2), are Minnesota residents;

2.18 (4) neither the owner nor the spouse of the owner claims another agricultural homestead
2.19 in Minnesota; and

2.20 (5) neither the owner nor the person actively farming the agricultural property lives
2.21 farther than four townships or cities, or a combination of four townships or cities, from the
2.22 agricultural property, except that if the owner or the owner's spouse is required to live in
2.23 employer-provided housing, the owner or owner's spouse, whichever is actively farming
2.24 the agricultural property, may live more than four townships or cities, or combination of
2.25 four townships or cities from the agricultural property.

2.26 The relationship under this paragraph may be either by blood or marriage.

2.27 ~~(ii) Agricultural property held by a trustee under a trust is eligible for agricultural~~
2.28 ~~homestead classification under this paragraph if the qualifications in clause (i) are met,~~
2.29 ~~except that "owner" means the grantor of the trust.~~

2.30 ~~(iii)~~ Property containing the residence of an owner who owns qualified property under
2.31 clause (i) shall be classified as part of the owner's agricultural homestead, if that property
2.32 is also used for noncommercial storage or drying of agricultural crops.

3.1 ~~(iv)~~ (iii) As used in this paragraph, "agricultural property" means class 2a property and
3.2 any class 2b property that is contiguous to and under the same ownership as the class 2a
3.3 property.

3.4 (c) Noncontiguous land shall be included as part of a homestead under section 273.13,
3.5 subdivision 23, paragraph (a), only if the homestead is classified as class 2a and the detached
3.6 land is located in the same township or city, or not farther than four townships or cities or
3.7 combination thereof from the homestead. Any taxpayer of these noncontiguous lands must
3.8 notify the county assessor that the noncontiguous land is part of the taxpayer's homestead,
3.9 and, if the homestead is located in another county, the taxpayer must also notify the assessor
3.10 of the other county.

3.11 (d) Agricultural land used for purposes of a homestead and actively farmed by a person
3.12 holding a vested remainder interest in it must be classified as a homestead under section
3.13 273.13, subdivision 23, paragraph (a). If agricultural land is classified class 2a, any other
3.14 dwellings on the land used for purposes of a homestead by persons holding vested remainder
3.15 interests who are actively engaged in farming the property, and up to one acre of the land
3.16 surrounding each homestead and reasonably necessary for the use of the dwelling as a home,
3.17 must also be assessed class 2a.

3.18 (e) Agricultural land and buildings that were class 2a homestead property under section
3.19 273.13, subdivision 23, paragraph (a), for the 1997 assessment shall remain classified as
3.20 agricultural homesteads for subsequent assessments if:

3.21 (1) the property owner abandoned the homestead dwelling located on the agricultural
3.22 homestead as a result of the April 1997 floods;

3.23 (2) the property is located in the county of Polk, Clay, Kittson, Marshall, Norman, or
3.24 Wilkin;

3.25 (3) the agricultural land and buildings remain under the same ownership for the current
3.26 assessment year as existed for the 1997 assessment year and continue to be used for
3.27 agricultural purposes;

3.28 (4) the dwelling occupied by the owner is located in Minnesota and is within 30 miles
3.29 of one of the parcels of agricultural land that is owned by the taxpayer; and

3.30 (5) the owner notifies the county assessor that the relocation was due to the 1997 floods,
3.31 and the owner furnishes the assessor any information deemed necessary by the assessor in
3.32 verifying the change in dwelling. Further notifications to the assessor are not required if the

4.1 property continues to meet all the requirements in this paragraph and any dwellings on the
4.2 agricultural land remain uninhabited.

4.3 (f) Agricultural land and buildings that were class 2a homestead property under section
4.4 273.13, subdivision 23, paragraph (a), for the 1998 assessment shall remain classified
4.5 agricultural homesteads for subsequent assessments if:

4.6 (1) the property owner abandoned the homestead dwelling located on the agricultural
4.7 homestead as a result of damage caused by a March 29, 1998, tornado;

4.8 (2) the property is located in the county of Blue Earth, Brown, Cottonwood, LeSueur,
4.9 Nicollet, Nobles, or Rice;

4.10 (3) the agricultural land and buildings remain under the same ownership for the current
4.11 assessment year as existed for the 1998 assessment year;

4.12 (4) the dwelling occupied by the owner is located in this state and is within 50 miles of
4.13 one of the parcels of agricultural land that is owned by the taxpayer; and

4.14 (5) the owner notifies the county assessor that the relocation was due to a March 29,
4.15 1998, tornado, and the owner furnishes the assessor any information deemed necessary by
4.16 the assessor in verifying the change in homestead dwelling. For taxes payable in 1999, the
4.17 owner must notify the assessor by December 1, 1998. Further notifications to the assessor
4.18 are not required if the property continues to meet all the requirements in this paragraph and
4.19 any dwellings on the agricultural land remain uninhabited.

4.20 (g) Agricultural property of a family farm corporation, joint family farm venture, family
4.21 farm limited liability company, or partnership operating a family farm as described under
4.22 subdivision 8 shall be classified homestead, to the same extent as other agricultural homestead
4.23 property, if all of the following criteria are met:

4.24 (1) the property consists of at least 40 acres including undivided government lots and
4.25 correctional 40's;

4.26 (2) a shareholder, member, or partner of that entity is actively farming the agricultural
4.27 property;

4.28 (3) that shareholder, member, or partner who is actively farming the agricultural property
4.29 is a Minnesota resident;

4.30 (4) neither that shareholder, member, or partner, nor the spouse of that shareholder,
4.31 member, or partner claims another agricultural homestead in Minnesota; and

5.1 (5) that shareholder, member, or partner does not live farther than four townships or
5.2 cities, or a combination of four townships or cities, from the agricultural property.

5.3 Homestead treatment applies under this paragraph for property leased to a family farm
5.4 corporation, joint farm venture, limited liability company, or partnership operating a family
5.5 farm if legal title to the property is in the name of an individual who is a member, shareholder,
5.6 or partner in the entity.

5.7 (h) To be eligible for the special agricultural homestead under this subdivision, an initial
5.8 full application must be submitted to the county assessor where the property is located.
5.9 Owners and the persons who are actively farming the property shall be required to complete
5.10 only a one-page abbreviated version of the application in each subsequent year provided
5.11 that none of the following items have changed since the initial application:

5.12 (1) the day-to-day operation, administration, and financial risks remain the same;

5.13 (2) the owners and the persons actively farming the property continue to live within the
5.14 four townships or city criteria and are Minnesota residents;

5.15 (3) the same operator of the agricultural property is listed with the Farm Service Agency;

5.16 (4) a Schedule F or equivalent income tax form was filed for the most recent year;

5.17 (5) the property's acreage is unchanged; and

5.18 (6) none of the property's acres have been enrolled in a federal or state farm program
5.19 since the initial application.

5.20 The owners and any persons who are actively farming the property must include the
5.21 appropriate Social Security numbers, and sign and date the application. If any of the specified
5.22 information has changed since the full application was filed, the owner must notify the
5.23 assessor, and must complete a new application to determine if the property continues to
5.24 qualify for the special agricultural homestead. The commissioner of revenue shall prepare
5.25 a standard reapplication form for use by the assessors.

5.26 (i) Agricultural land and buildings that were class 2a homestead property under section
5.27 273.13, subdivision 23, paragraph (a), for the 2007 assessment shall remain classified
5.28 agricultural homesteads for subsequent assessments if:

5.29 (1) the property owner abandoned the homestead dwelling located on the agricultural
5.30 homestead as a result of damage caused by the August 2007 floods;

5.31 (2) the property is located in the county of Dodge, Fillmore, Houston, Olmsted, Steele,
5.32 Wabasha, or Winona;

6.1 (3) the agricultural land and buildings remain under the same ownership for the current
6.2 assessment year as existed for the 2007 assessment year;

6.3 (4) the dwelling occupied by the owner is located in this state and is within 50 miles of
6.4 one of the parcels of agricultural land that is owned by the taxpayer; and

6.5 (5) the owner notifies the county assessor that the relocation was due to the August 2007
6.6 floods, and the owner furnishes the assessor any information deemed necessary by the
6.7 assessor in verifying the change in homestead dwelling. For taxes payable in 2009, the
6.8 owner must notify the assessor by December 1, 2008. Further notifications to the assessor
6.9 are not required if the property continues to meet all the requirements in this paragraph and
6.10 any dwellings on the agricultural land remain uninhabited.

6.11 (j) Agricultural land and buildings that were class 2a homestead property under section
6.12 273.13, subdivision 23, paragraph (a), for the 2008 assessment shall remain classified as
6.13 agricultural homesteads for subsequent assessments if:

6.14 (1) the property owner abandoned the homestead dwelling located on the agricultural
6.15 homestead as a result of the March 2009 floods;

6.16 (2) the property is located in the county of Marshall;

6.17 (3) the agricultural land and buildings remain under the same ownership for the current
6.18 assessment year as existed for the 2008 assessment year and continue to be used for
6.19 agricultural purposes;

6.20 (4) the dwelling occupied by the owner is located in Minnesota and is within 50 miles
6.21 of one of the parcels of agricultural land that is owned by the taxpayer; and

6.22 (5) the owner notifies the county assessor that the relocation was due to the 2009 floods,
6.23 and the owner furnishes the assessor any information deemed necessary by the assessor in
6.24 verifying the change in dwelling. Further notifications to the assessor are not required if the
6.25 property continues to meet all the requirements in this paragraph and any dwellings on the
6.26 agricultural land remain uninhabited.

6.27 **EFFECTIVE DATE.** This section is effective beginning for property taxes payable in
6.28 2020.

6.29 Sec. 2. Minnesota Statutes 2018, section 273.124, subdivision 21, is amended to read:

6.30 Subd. 21. **Trust property; homestead.** Real or personal property, including agricultural
6.31 property, held by a trustee under a trust is eligible for classification as homestead property
6.32 if the property satisfies the requirements of paragraph (a), (b), (c), ~~or (d)~~, or (e).

7.1 (a) The grantor or surviving spouse of the grantor of the trust occupies and uses the
7.2 property as a homestead.

7.3 (b) A relative or surviving relative of the grantor who meets the requirements of
7.4 subdivision 1, paragraph (c), in the case of residential real estate; or subdivision 1, paragraph
7.5 (d), in the case of agricultural property, occupies and uses the property as a homestead.

7.6 (c) A family farm corporation, joint farm venture, limited liability company, or partnership
7.7 operating a family farm in which the grantor or the grantor's surviving spouse is a
7.8 shareholder, member, or partner rents the property; and, either (1) a shareholder, member,
7.9 or partner of the corporation, joint farm venture, limited liability company, or partnership
7.10 occupies and uses the property as a homestead; or (2) the property is at least 40 acres,
7.11 including undivided government lots and correctional 40's, and a shareholder, member, or
7.12 partner of the tenant-entity is actively farming the property on behalf of the corporation,
7.13 joint farm venture, limited liability company, or partnership.

7.14 (d) A person who has received homestead classification for property taxes payable in
7.15 2000 on the basis of an unqualified legal right under the terms of the trust agreement to
7.16 occupy the property as that person's homestead and who continues to use the property as a
7.17 homestead; or, a person who received the homestead classification for taxes payable in 2005
7.18 under paragraph (c) who does not qualify under paragraph (c) for taxes payable in 2006 or
7.19 thereafter but who continues to qualify under paragraph (c) as it existed for taxes payable
7.20 in 2005.

7.21 (e) The qualifications under subdivision 14, paragraph (b), clause (i), are met. For
7.22 purposes of this paragraph, "owner" means the grantor of the trust or the surviving spouse
7.23 of the grantor.

7.24 (f) For purposes of this subdivision, the following terms have the meanings given them:

7.25 (1) "agricultural property" means the house, garage, other farm buildings and structures,
7.26 and agricultural land;

7.27 (2) "agricultural land" has the meaning given in section 273.13, subdivision 23, except
7.28 that the phrases "owned by same person" or "under the same ownership" as used in that
7.29 subdivision mean and include contiguous tax parcels owned by:

7.30 (i) an individual and a trust of which the individual, the individual's spouse, or the
7.31 individual's deceased spouse is the grantor; or

7.32 (ii) different trusts of which the grantors of each trust are any combination of an
7.33 individual, the individual's spouse, or the individual's deceased spouse; and

8.1 ~~For purposes of this subdivision, (3) "grantor" is defined as~~ means the person creating
 8.2 or establishing a testamentary, inter Vivos, revocable or irrevocable trust by written
 8.3 instrument or through the exercise of a power of appointment.

8.4 (g) Noncontiguous land is included as part of a homestead under this subdivision, only
 8.5 if the homestead is classified as class 2a, as defined in section 273.13, subdivision 23, and
 8.6 the detached land is located in the same township or city, or not farther than four townships
 8.7 or cities or combination thereof from the homestead. Any taxpayer of these noncontiguous
 8.8 lands must notify the county assessor that the noncontiguous land is part of the taxpayer's
 8.9 homestead, and, if the homestead is located in another county, the taxpayer must also notify
 8.10 the assessor of the other county.

8.11 **EFFECTIVE DATE.** This section is effective beginning for property taxes payable in
 8.12 2020.

8.13 Sec. 3. Minnesota Statutes 2018, section 278.01, subdivision 1, is amended to read:

8.14 Subdivision 1. **Determination of validity.** (a) Any person having personal property, or
 8.15 any estate, right, title, or interest in or lien upon any parcel of land, who claims that such
 8.16 property has been partially, unfairly, or unequally assessed in comparison with other property
 8.17 in the (1) city, or (2) county, or (3) in the case of a county containing a city of the first class,
 8.18 the portion of the county excluding the first class city, or that the parcel has been assessed
 8.19 at a valuation greater than its real or actual value, or that the tax levied against the same is
 8.20 illegal, in whole or in part, or has been paid, or that the property is exempt from the tax so
 8.21 levied, may have the validity of the claim, defense, or objection determined by the district
 8.22 court of the county in which the tax is levied or by the Tax Court by serving one copy of a
 8.23 petition for such determination upon the county auditor, ~~one copy on the county attorney,~~
 8.24 ~~one copy on the county treasurer, and three copies on the county assessor.~~ The county
 8.25 assessor shall immediately forward one copy of the petition to the appropriate governmental
 8.26 authority in a home rule charter or statutory city or town in which the property is located if
 8.27 that city or town employs its own certified assessor. A copy of the petition shall also be
 8.28 forwarded by the assessor to the school board of the school district in which the property
 8.29 is located.

8.30 ~~(b) In counties where the office of county treasurer has been combined with the office~~
 8.31 ~~of county auditor, the county may elect to require the petitioner to serve the number of~~
 8.32 ~~copies as determined by the county. The county assessor shall immediately forward one~~
 8.33 ~~copy of the petition to the appropriate governmental authority in a home rule charter or~~
 8.34 ~~statutory city or town in which the property is located if that city or town employs its own~~

9.1 ~~certified assessor. A list of petitioned properties, including the name of the petitioner, the~~
 9.2 ~~identification number of the property, and the estimated market value, shall be sent on or~~
 9.3 ~~before the first day of July by the county auditor/treasurer to the school board of the school~~
 9.4 ~~district in which the property is located.~~

9.5 ~~(e)~~ (b) For all counties, the petitioner must file the ~~copies~~ copy with proof of service, in
 9.6 the office of the court administrator of the district court on or before April 30 of the year
 9.7 in which the tax becomes payable. A petition for determination under this section may be
 9.8 transferred by the district court to the Tax Court. An appeal may also be taken to the Tax
 9.9 Court under chapter 271 at any time following receipt of the valuation notice that county
 9.10 assessors or city assessors having the powers of a county assessor are required by section
 9.11 273.121 to send to persons whose property is to be included on the assessment roll that year,
 9.12 but prior to May 1 of the year in which the taxes are payable.

9.13 **EFFECTIVE DATE.** This section is effective July 1, 2019.

9.14 Sec. 4. Minnesota Statutes 2018, section 289A.31, subdivision 2, is amended to read:

9.15 Subd. 2. **Joint income tax returns.** (a) If a joint income tax return is made by a husband
 9.16 and wife, the liability for the tax is joint and several. A spouse who qualifies for relief from
 9.17 a liability attributable to an underpayment under section 6015 subsection (b) or (f) of the
 9.18 Internal Revenue Code is relieved of the state income tax liability on the underpayment.

9.19 (b) In the case of individuals who were a husband and wife prior to the dissolution of
 9.20 their marriage or their legal separation, or prior to the death of one of the individuals, for
 9.21 tax liabilities reported on a joint or combined return, the liability of each person is limited
 9.22 to the proportion of the tax due on the return that equals that person's proportion of the total
 9.23 tax due if the husband and wife filed separate returns for the taxable year. This provision
 9.24 is effective only when the commissioner receives written notice of the marriage dissolution,
 9.25 legal separation, or death of a spouse from the husband or wife. No refund may be claimed
 9.26 by an ex-spouse, legally separated or widowed spouse for any taxes paid more than 60 days
 9.27 before receipt by the commissioner of the written notice.

9.28 ~~(c) A request for calculation of separate liability pursuant to paragraph (b) for taxes~~
 9.29 ~~reported on a return must be made within six years after the due date of the return. For~~
 9.30 ~~calculation of separate liability for taxes assessed by the commissioner under section 289A.35~~
 9.31 ~~or 289A.37, the request must be made within six years after the date of assessment. The~~
 9.32 commissioner is not required to calculate separate liability pursuant to paragraph (b) if the
 9.33 remaining unpaid liability for which recalculation is requested is \$100 or less.

10.1 **EFFECTIVE DATE.** This section is effective for returns first due for taxable years
10.2 beginning after December 31, 2018.

10.3 Sec. 5. Minnesota Statutes 2018, section 291.03, subdivision 9, is amended to read:

10.4 Subd. 9. **Qualified small business property.** Property satisfying all of the following
10.5 requirements is qualified small business property:

10.6 (1) The value of the property was included in the federal adjusted taxable estate.

10.7 (2) The property consists of the assets of a trade or business or shares of stock or other
10.8 ownership interests in a corporation or other entity engaged in a trade or business. Shares
10.9 of stock in a corporation or an ownership interest in another type of entity do not qualify
10.10 under this subdivision if the shares or ownership interests are traded on a public stock
10.11 exchange at any time during the three-year period ending on the decedent's date of death.
10.12 For purposes of this subdivision, an ownership interest includes the interest the decedent is
10.13 deemed to own under sections 2036, 2037, ~~and 2038,~~ 2040, or 2044 of the Internal Revenue
10.14 Code.

10.15 (3) During the taxable year that ended before the decedent's death, the trade or business
10.16 must not have been a passive activity within the meaning of section 469(c) of the Internal
10.17 Revenue Code, and the decedent or the decedent's spouse must have materially participated
10.18 in the trade or business within the meaning of section 469(h) of the Internal Revenue Code,
10.19 excluding section 469(h)(3) of the Internal Revenue Code and any other provision provided
10.20 by United States Treasury Department regulation that substitutes material participation in
10.21 prior taxable years for material participation in the taxable year that ended before the
10.22 decedent's death.

10.23 (4) The gross annual sales of the trade or business were \$10,000,000 or less for the last
10.24 taxable year that ended before the date of the death of the decedent.

10.25 (5) The property does not include:

10.26 (i) cash;

10.27 (ii) cash equivalents;

10.28 (iii) publicly traded securities; or

10.29 (iv) any assets not used in the operation of the trade or business.

10.30 (6) For property consisting of shares of stock or other ownership interests in an entity,
10.31 the value of items described in clause (5) must be excluded in the valuation of the decedent's
10.32 interest in the entity.

11.1 (7) The decedent or the decedent's spouse continuously owned the property, or an
 11.2 undivided or joint interest in the property, including property the decedent or the decedent's
 11.3 spouse is deemed to own under sections 2036, 2037, ~~and~~ 2038, 2040, or 2044 of the Internal
 11.4 Revenue Code, or under subdivision 1d, for the three-year period ending on the date of
 11.5 death of the decedent. In the case of a sole proprietor, if the property replaced similar property
 11.6 within the three-year period, the replacement property will be treated as having been owned
 11.7 for the three-year period ending on the date of death of the decedent. For the purposes of
 11.8 the three-year holding period under this clause, any ownership by the decedent's spouse,
 11.9 whether the spouse predeceases or survives the decedent, is attributed to the decedent.

11.10 (8) For three years following the date of death of the decedent, the trade or business is
 11.11 not a passive activity within the meaning of section 469(c) of the Internal Revenue Code,
 11.12 and a family member materially participates in the operation of the trade or business within
 11.13 the meaning of section 469(h) of the Internal Revenue Code, excluding section 469(h)(3)
 11.14 of the Internal Revenue Code and any other provision provided by United States Treasury
 11.15 Department regulation that substitutes material participation in prior taxable years for
 11.16 material participation in the three years following the date of death of the decedent.

11.17 (9) The estate and the qualified heir elect to treat the property as qualified small business
 11.18 property and agree, in the form prescribed by the commissioner, to pay the recapture tax
 11.19 under subdivision 11, if applicable.

11.20 **EFFECTIVE DATE.** This section is effective retroactively for estates of decedents
 11.21 dying after December 31, 2017.

11.22 Sec. 6. Minnesota Statutes 2018, section 291.03, subdivision 10, is amended to read:

11.23 Subd. 10. **Qualified farm property.** Property satisfying all of the following requirements
 11.24 is qualified farm property:

11.25 (1) The value of the property was included in the federal adjusted taxable estate.

11.26 (2) The property consists of agricultural land and is owned by a person or entity that is
 11.27 either not subject to or is in compliance with section 500.24.

11.28 (3) For property taxes payable in the taxable year of the decedent's death, the property
 11.29 is classified as class 2a property under section 273.13, subdivision 23, and is classified as
 11.30 agricultural homestead, agricultural relative homestead, or special agricultural homestead
 11.31 under section 273.124.

11.32 (4) The decedent or the decedent's spouse continuously owned the property, or an
 11.33 undivided or joint interest in the property, including property the decedent or the decedent's

12.1 spouse is deemed to own under sections 2036, 2037, ~~and 2038~~, 2040, or 2044 of the Internal
12.2 Revenue Code, or under subdivision 1d, for the three-year period ending on the date of
12.3 death of the decedent either by ownership of the agricultural land or pursuant to holding an
12.4 interest in an entity that is not subject to or is in compliance with section 500.24. For the
12.5 purposes of the three-year holding period under this clause, any ownership by the decedent's
12.6 spouse, whether the spouse predeceases or survives the decedent, is attributed to the decedent.

12.7 (5) The property is classified for property tax purposes as class 2a property under section
12.8 273.13, subdivision 23, for three years following the date of death of the decedent.

12.9 (6) The estate and the qualified heir elect to treat the property as qualified farm property
12.10 and agree, in a form prescribed by the commissioner, to pay the recapture tax under
12.11 subdivision 11, if applicable.

12.12 **EFFECTIVE DATE.** This section is effective retroactively for estates of decedents
12.13 dying after December 31, 2017.